THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION No.6285 of 2004

Date: 02.11.2007

Between:

B.Krishna Murthy

....Petitioner

and

The District Panchayat Officer,
Karimnagar and another

....Respondents

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION No.6285 of 2004

ORDER:

In the auction that was held in 2002 for collecting the market fees for the years 2003-2004 petitioner who became the successful bidder made a representation to the respondents to waive the amount payable by him for the year 2004, due to the absence of hawkers at the market due to drought whereas upon the Panchayat Committee, at its urgent meeting held on 18.02.2004, having come to an opinion that the request of the petitioner is reasonable, resolved to authorize the Sarpanch to obtain permission from the District Gram Panchayat Officer, (1st respondent) for remission. After taking into consideration the drought conditions in the Village and the resolution of the Gram Panchayat Committee and the report of the Extension Officer, 1st respondent accorded permission to remit Rs.15,000/- from out of the amount due payable by the petitioner and directed the petitioner to remit the balance amount of Rs.27,500/-. The case of the petitioner is though he remitted the amount of Rs.25,000/- as directed, he received a notice for payment of the remitted amount of Rs.15,000/-, and so the said notice for payment of Rs.15,000/- is liable to be quashed.

In para 4 of his counter affidavit filed by the 1st respondent on behalf of the respondents, he admitted that though Gram Panchayat Committee permitted remission of Rs.15,000/- to the petitioner on humanitarian grounds, the Panchayat Secretary, who is responsible for implementation of resolutions of Gram Panchayat Committee, without following the said resolution, issued Notice to the petitioner for payment of the balance due and created un-necessary complication by not following the resolution of Gram Panchayat Committee.

So it is clear that first respondent admitted the case of the petitioner and took the stand that 2nd respondent is responsible for the petitioner for filing this writ petition. Since 2nd respondent who issued the notice in respect of the amount waived did not file his counter affidavit so petitioner is entitled to the relief sought.

Hence, the petition is allowed with costs, to be borne by 2nd respondent who issued the notice of demand to the petitioner, ignoring the resolution of the Panchayat Committee and the ratification by the Finance Department, personally. The notice impugned is quashed. Advocate fee is fixed at Rs.1,000/-.

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C.Y.SOMAYAJULU, J

2nd NOVEMBER, 2007

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